

AMENDED IN ASSEMBLY MARCH 11, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1883

Introduced by Assembly Member Kelley

February 4, 2002

An act to amend Sections 7502.3, 7503, 7504, 7505.5, 7506.3, 7507.12, and 7510.1 of the Business and Professions Code, ~~and to amend Section 34601 of the Vehicle Code~~, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 1883, as amended, Kelley. Collateral recovery: reposseors.

(1) Existing law, the Collateral Recovery Act, establishes the Bureau of Security and Investigative Services that is under the supervision and control of the Director of the Department of Consumer Affairs. Existing law authorizes the licensure and regulation of persons engaged in the business of repossessing personal property. Existing law makes it a felony for a person to knowingly falsify fingerprints or photographs required by the act. Existing law provides that a violation of the act, including certain specific provisions, is a crime.

This bill would prohibit an applicant from knowingly making any false statements to the bureau on his or her application for licensure. The bill would require an applicant to sign his or her application for licensure and qualification certificate stating, under penalty of perjury, that he or she meets the minimum requirements for licensure.

(2) Existing law requires that every office licensed as a repossession agency be under the direction of a qualified certificate holder and requires the certificate holder in charge of the office to spend over 51%

of his or her time conducting business at that office during normal business hours.

This bill would instead require that a qualified certificate holder be in charge of only one office location.

(3) Existing law authorizes the director to suspend or revoke a repossession agency license, a qualification certificate, or registration if the director determines that a licensee or others specified, among other things, made any false statement or gave any false information concerning an application for license or a renewal or reinstatement of a license.

This bill would additionally authorize the director to suspend or revoke a repossession agency license, a qualification certificate, or registration if the director determines that a licensee or others specified, gave any false information concerning a qualification certificate or registration.

(4) Existing law ~~defines a “commercial motor vehicle” and excludes specified vehicles from this definition.~~

~~This bill would additionally exclude a reposessor’s tow vehicle having a gross weight rating of less than 15,001 pounds from the definition of a “commercial motor vehicle.”~~ *provides that certain collateral is considered to be repossessed when a reposessor gains entry to the collateral or when the collateral becomes connected to a tow truck.*

This bill would provide that a repossession of the collateral also occurs when the collateral becomes connected to the reposessor’s tow vehicle, as defined.

Because this bill would place additional requirements on a person licensed under the Collateral Recovery Act, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 7502.3 of the Business and Professions Code is amended to read:

7502.3. (a) No applicant for a license, certificate, or registration shall knowingly make any false statement of fact required to be revealed in the application to the bureau.

(b) Any person who knowingly falsifies the fingerprints or photographs required by any provision of this chapter is guilty of a felony.

SEC. 2. Section 7503 of the Business and Professions Code is amended to read:

7503. An application for a repossession agency license shall be made in writing to, and filed with, the bureau in the form that may be required by the director and shall be accompanied by the original license fee prescribed by this chapter. The director may require the submission of any other pertinent information, evidence, statements, or documents.

Every application for a repossession agency license shall be signed under penalty of perjury and state, among other things that may be required, the name of the applicant and the name under which the applicant will do business, the location by number and street and city of the office of the business for which the license is sought, and the usual business hours the business will maintain. The residence address, residence telephone number, and driver's license number of each licensee, principal owner of each licensee, and any applicant for a license, if requested, shall be confidential pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public.

No license shall be issued in any fictitious name which may be confused with or which is similar to any federal, state, county, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

SEC. 3. Section 7504 of the Business and Professions Code is amended to read:

1 7504. (a) Except as otherwise provided in this chapter, an
2 applicant for a qualification certificate shall comply with all of the
3 following:

4 (1) Be at least 18 years of age.

5 (2) Have been, for at least two years of lawful experience,
6 during the five years preceding the date on which his or her
7 application is filed, a registrant or have had two years of lawful
8 experience in recovering collateral within this state. Lawful
9 experience means experience in recovering collateral as a
10 registrant pursuant to this chapter or as a salaried employee of a
11 financial institution or vehicle dealer.

12 Two years' experience shall consist of not less than 4,000 hours
13 of actual compensated work performed by the applicant preceding
14 the filing of an application.

15 An applicant shall certify that he or she has completed the
16 claimed hours of qualifying experience and the exact details as to
17 the character and nature thereof by written certifications from the
18 employer, licensee, financial institution, or vehicle dealer, subject
19 to independent verification by the director as he or she may
20 determine. In the event of inability of an applicant to supply the
21 written certifications from the employer, licensee, financial
22 institution or vehicle dealer in whole or in part, applicants may
23 offer other written certifications from other persons substantiating
24 their experience for consideration by the director. All
25 certifications shall be made under penalty perjury and shall include
26 a statement that representations made are true, correct, and contain
27 no material omissions of fact to the best knowledge and belief of
28 the applicant or the person submitting the certification.

29 (3) Complete and forward to the bureau a qualified certificate
30 holder application which shall be on a form prescribed by the
31 director and signed under penalty of perjury. The application shall
32 be accompanied by two recent photographs of the applicant, of a
33 type prescribed by the director, and two classifiable sets of his or
34 her fingerprints. The residence address, residence telephone
35 number, and driver's license number of each qualified certificate
36 holder or applicant for a qualification certificate, if requested, shall
37 be confidential pursuant to the Information Practices Act of 1977
38 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4
39 of Division 3 of the Civil Code) and shall not be released to the
40 public.

1 (4) Pass the required examination.

2 (5) Pay the required application and examination fees to the
3 bureau.

4 (b) Upon the issuance of the initial qualification certificate or
5 renewal qualification certificate, the bureau shall issue to the
6 certificate holder a suitable pocket identification card which
7 includes a photograph of the certificate holder. The photograph
8 shall be of a size prescribed by the bureau. The card shall contain
9 the name of the licensee with whom the certificate holder is
10 employed.

11 SEC. 4. Section 7505.5 of the Business and Professions Code
12 is amended to read:

13 7505.5. The person deemed to be actively in charge of an
14 office shall be the holder of a qualification certificate and the
15 certificate, together with the current renewal certificate, shall be
16 prominently displayed below the repossession agency's license.
17 The person shall be in charge of only one licensed location. The
18 person shall share equally with the licensee the responsibility for
19 the conduct of the business and the personnel of the licensed
20 agency *or agencies, if more than one agency is licensed at that*
21 *location*. This section shall not apply to any licensee who notifies
22 the bureau in writing that the licensee is not conducting any
23 business, but wishes to maintain a current license status with the
24 bureau. When the licensee resumes conducting business, the
25 licensee shall so inform the bureau in writing within 30 days.

26 SEC. 5. Section 7506.3 of the Business and Professions Code
27 is amended to read:

28 7506.3. Except as otherwise provided in this article, every
29 person entering the employ of, or contracting with, a licensee or
30 multiple licensee after the effective date of this article shall
31 immediately complete an application for an initial registration or
32 a reregistration, sign it under penalty of perjury, and file the
33 appropriate application with the chief within 15 working days after
34 the commencement of employment or contracted services for the
35 licensee or multiple licensee for whom the applicant is employed
36 or contracted. Applicants for registration must be at least 18 years
37 of age.

38 (a) An initial registration application shall be required of those
39 persons who have not previously submitted an application for
40 registration, or been registered as a registrant.

1 (b) A reregistration application shall be required of those
2 persons who have previously submitted or been registered as a
3 registrant.

4 (c) No registrant of a multiple licensee shall be required to file
5 more than one application for registration or reregistration for each
6 multiple licensee.

7 SEC. 6. *Section 7507.12 of the Business and Professions*
8 *Code is amended to read:*

9 7507.12. With regard to collateral subject to registration
10 under the Vehicle Code, a repossession occurs when the
11 reposessor gains entry to the collateral or when the collateral
12 becomes connected to a tow truck *or the reposessor's tow vehicle,*
13 *as those terms are defined in Section 615 of the Vehicle Code.*

14 SEC. 7. Section 7510.1 of the Business and Professions Code
15 is amended to read:

16 7510.1. In addition to any other remedies authorized by this
17 chapter, the director may suspend or revoke a repossession agency
18 license, a qualification certificate, or registration issued under this
19 chapter if the director determines that the licensee or the licensee's
20 manager, if an individual, or if the licensee is a person other than
21 an individual, that any of its officers, partners, registrants,
22 employees, or its manager, has:

23 (a) Made any false statement or given any false information in
24 connection with an application for a license, qualification
25 certificate, or registration, or a renewal or reinstatement thereof.

26 (b) Violated any provisions of this chapter.

27 (c) Violated any rule of the director adopted pursuant to
28 authority contained in this chapter.

29 (d) Been convicted of a felony or any crime substantially
30 related to the repossession agency business including illegally
31 using, carrying, or possessing a deadly weapon.

32 (e) Committed or permitted any registrant or employee to
33 commit any act while the license was expired which would be
34 cause for the suspension or revocation of a license, or grounds for
35 the denial of an application for a license.

36 (f) Unlawfully committed assault, battery, or kidnapping, or
37 used force or violence on any person.

38 (g) Knowingly violated, or advised, encouraged, or assisted the
39 violation of any court order or injunction in the course of business
40 as a licensee.

1 (h) Been convicted of a violation of Section 148 of the Penal
2 Code, resisting or obstructing a public officer.

3 (i) Committed any act which is a ground for denial of an
4 application for license under this chapter.

5 (j) Committed any act prohibited by Chapter 1.5 (commencing
6 with Section 630) of Title 15 of Part 1 of the Penal Code.

7 (k) Committed any act in the course of the licensee's business
8 constituting dishonesty or fraud, including, but not limited to:

9 (1) Knowingly making a false statement relating to evidence or
10 information obtained in the course of employment or while under
11 contract, or knowingly publishing a slander or a libel in the course
12 of business.

13 (2) Using illegal means in the collection or attempted
14 collection of a debt or obligation.

15 (l) Represented that the licensee has an office and conducts
16 business at a specific address when that is not the case.

17 ~~SEC. 7. Section 34601 of the Vehicle Code is amended to~~
18 ~~read:~~

19 ~~34601. (a) As used in this division, "motor carrier of~~
20 ~~property" means any person who operates any commercial motor~~
21 ~~vehicle as defined in subdivision (c). "Motor carrier of property"~~
22 ~~does not include a household goods carrier, as defined in Section~~
23 ~~5109 of the Public Utilities Code, a household goods carrier~~
24 ~~transporting used office, store, and institution furniture and~~
25 ~~fixtures under its household goods carrier permit pursuant to~~
26 ~~Section 5137 of the Public Utilities Code, persons providing only~~
27 ~~transportation of passengers, or a passenger stage corporation~~
28 ~~transporting baggage and express upon a passenger vehicle~~
29 ~~incidental to the transportation of passengers.~~

30 ~~(b) As used in this division, "for hire motor carrier of~~
31 ~~property" means a motor carrier of property as defined in~~
32 ~~subdivision (a) who transports property for compensation.~~

33 ~~(c) (1) As used in this division, except as provided in~~
34 ~~paragraph (2), a "commercial motor vehicle" means any~~
35 ~~self-propelled vehicle listed in subdivisions (a), (b), (f), (g), and~~
36 ~~(k) of Section 34500, any motortruck of two or more axles that is~~
37 ~~more than 10,000 pounds gross vehicle weight rating, and any~~
38 ~~other motor vehicle used to transport property for compensation.~~

39 ~~(2) As used in this division, "commercial motor vehicle" does~~
40 ~~not include any of the following:~~

1 ~~(A) Vehicles identified in subdivision (f) of Section 34500, if~~
2 ~~the gross vehicle weight rating of the towing vehicle is 10,000~~
3 ~~pounds or less.~~

4 ~~(B) Vehicles identified in subdivision (g) of Section 34500, if~~
5 ~~the hazardous material transportation does not require the display~~
6 ~~of placards under Section 27903, a license under Section 32000.5,~~
7 ~~or a hazardous waste transporter registration under Section 25163~~
8 ~~of the Health and Safety Code, and the vehicle is not operated in~~
9 ~~commercial use.~~

10 ~~(C) Vehicles operated by a household goods carrier, as defined~~
11 ~~in Section 5109 of the Public Utilities Code, under the household~~
12 ~~goods carrier permit pursuant to Section 5137 of that code.~~

13 ~~(D) Vehicles operated by a household goods carrier to transport~~
14 ~~used office, store, and institution furniture and fixtures under its~~
15 ~~household goods carrier permit pursuant to Section 5137 of the~~
16 ~~Public Utilities Code.~~

17 ~~(E) Pickup trucks as defined in Section 471, if the conditions~~
18 ~~in subparagraphs (A) and (B) are also met.~~

19 ~~(F) Two-axle daily rental trucks with a gross vehicle weight~~
20 ~~rating of less than 26,001 pounds, when operated in~~
21 ~~noncommercial use.~~

22 ~~(G) Motortrucks or two-axle truck tractors, with a gross vehicle~~
23 ~~weight rating of less than 26,001 pounds, when used solely to tow~~
24 ~~a camp trailer, trailer coach, fifth-wheel travel trailer, or utility~~
25 ~~trailer. Vehicle combinations described in this subparagraph are~~
26 ~~not subject to Section 27900, 34501.12, or 34507.5.~~

27 ~~(H) A reposessor's tow vehicle with a gross vehicle weight~~
28 ~~rating of less than 15,001 pounds.~~

29 ~~(d) For purposes of this chapter, "private carrier" means a~~
30 ~~motor carrier of property, who transports only his or her own~~
31 ~~property, including, but not limited to, the delivery of goods sold~~
32 ~~by that carrier.~~

33 SEC. 8. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O

